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IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Joint written statement on the situation of economic, social and cultural rights in Japan submitted by the International Association of Democratic Lawyers, a non-governmental organization in special consultative status with the Economic and Social Council and the Japanese Workers' Committee for Human Rights

The Secretary-General has received the following written statement, which is distributed in accordance with Economic and Social Council resolution 1988/4.

[4 July 2001]

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I. GENERAL FRAMEWORK WITHIN WHICH THE COVENANT IS IMPLEMENTED

A. Illegal acts by the State

Discrimination against government workers on the grounds of trade union affiliation

1. Twenty-seven years have already passed since 430 customs workers filed a lawsuit. During this long period, 24 plaintiffs have died and roughly 200 have been obliged to leave the workplace because of reaching retirement age, without having any remedy. In January 2001, the Tokyo High Court issued the judgement which recognized unfair labour practices on the management side. The plaintiffs have still not received remedy because of the final appeal made by the authorities.

Discriminatory treatment on the ground of type of employment in national hospitals and sanatoria

2. In national hospitals and sanatoria, many non-regular employees are hired and are performing the same work as regular employees, with the same qualifications as well. These employees are discriminated against with regard to their wages and various other working conditions, and have no collective bargaining rights.

Discriminatory non-employment at the time of the privatization of JNR

3. In 1987, the JNR was divided and privatized. It was succeeded by the new JR companies but 7,600 workers were not re-employed because of discrimination. One thousand and forty-seven workers have long been fighting for remedy.

The right of firefighters to organize

4. In 1979, at the time of ratification of the Covenant, the Government declared that it interpreted the Covenant to include fire service workers as members of the police. The fire service of Japan had been separated from the police and started as a community service in 1948 with the enactment of the Fire Service Organization Law. The Government has been violating the Covenant for 36 years with the help of the sophistry that firefighters are members of the police.

Reasonable limitation of the long working hours of government employees

5. The main district of Japanese government offices in Tokyo-Kasumigaseki is called "sleepless headquarters". According to an inquiry made by the trade unions, average overtime work is 48 hours and 13 per cent replied that they worked 100 hours overtime every month.

Human rights violations against sufferers of occupational fatigue illness

6. The Government reports that the administration gives "warm protection" to sufferers of occupational diseases, but the actual situation is that authorization to victimized workers is normally given after a long period of examination and workers must submit a considerable number of papers. And even after having the authorization the contents of the benefits are limited by a ministry circular.

B. A judicial system which is unable to protect human rights

The workers' rights protection system in danger

7. The courts have recently issued one decision after another reversing remedy orders favourable to workers delivered by labour relations commissions, stating that "employers are essentially free to dismiss workers".

Discrimination against trade union activists at the People's Life Finance Corporation

8. A case was brought to the Tokyo Metropolitan Labour Relations Commission in September 1986 and a complete remedy order was delivered in May 1995 and confirmed in February 2000 by decision of the Tokyo District Court. The judgement, which recognized the existence of unfair labour practices on the management side and pay differences with average workers, provided remedy only to three plaintiffs and rejected the claims of 19 others. The only reason the judgement gave was that the authorities had correctly evaluated the performance of the workers in question.

II. ISSUES RELATING TO THE GENERAL PROVISIONS OF THE COVENANT (arts 1-5)

Towards the realization of gender equality (art. 3)

"Arbitration system" after the amendment of the Equal Employment Opportunity Law

9. The cabin attendants (female) of Japan Airlines who applied for arbitration based on the revised law found that the "improved" system did not serve so well as the Government boasted.

Fighting discrimination against married women

10. At Sumitomo Life Insurance, one of the leading insurance companies, the management did not want women to continue working after they married and harassed married female office workers. Workers applied to the administration to intervene but could get no improvement and they filed a lawsuit in December 1995. They are still waiting for the court decision.

Gender discrimination in a bank

11. Thirteen female employees of a bank filed a lawsuit in June 1987 and won a landmark High Court ruling in November 1996. The management appealed the final judgement, stating that gender gaps were normal at the time of recruitment and should not be judged illegal. The case is now being examined in the Supreme Court.

Discrimination against female students in recruitment

12. Discrimination is still persistent even after the enactment of the revised Equal Employment Opportunity Law, with such practices as "men only" in a company which shows itself as if it does not discriminate against women and sexual harassment at interviews in order to deter women.

Gender equality at work

13. A female worker at a small construction company formed a trade union and became an officer. The management transferred her for one year to a room without windows, harassed her and finally dismissed her. She is now fighting to be reinstated in her job.

III. ISSUES RELATING TO SPECIAL RIGHTS RECOGNIZED IN THE COVENANT (arts. 6-15)

Discrimination against older persons in banks (arts. 6, 7, 9)

14. In almost all the banks in Japan, salaries of workers over the age of 55 are systematically reduced by almost half and workers are deprived of promotion opportunities. In a lawsuit raised by an employee of the Daishi Bank, the Supreme Court recognized disadvantages experienced by the workers but did not remedy the plaintiff. A recommendation from the Committee based on its General Comment No. 3 would be appreciated.

Safe and healthy working conditions (art. 7)

15. For the realization of safety and healthy working conditions without deaths and suicides due to overwork, the Japan Center for Health and Safety of Working People demands that the Government promote strict observation of the 8-hour workday and the ban on unpaid overtime work.

16. Tunnel workers' pneumoconiosis. Japan still produces victimized workers with pneumoconiosis while a great number of workers continue working exposed to a quantity of dust. The Government of Japan should immediately draw up a plan for the eradication of pneumoconiosis, in accordance with ILO/WHO appeals.

Trade union rights (art. 8)

Union crushing and human rights violations in private schools

17. The population of the adolescent generation, having reached its peak in 1989, is now expected to decrease to as low as 1.39 million by 2004. Faced with growing risks of having fewer students, private school owners are trying to impose poor working conditions. Human rights violations are rampant in private schools.

Neglect of rights of labour union by the world's largest food manufacturer

18. The management of Nestlé failed to hold control of the labour union and formed a new cooperative union dividing the organization of the old union.

The great Hanshin-Awaji earthquake and the right to housing (art. 11)

19. The Government of Japan refuses to provide financial aid to victims of the earthquake for the rehousing, saying that houses are private.